

## REMARKS

Claim 1-4, 6, 8, 10, 11 and 15-23 are pending, claim 6 having been amended by the present amendment. Applicant respectfully requests entry of the present amendments of claim 6 and the Specification, discussed below, as they do not raise new issues that would require further consideration or search, do not raise the issue of new matter, and place the application in better form for appeal, if necessary.

### Claim Amendment

Claim 6 stands rejected under 35 U.S.C. § 112, second paragraph, as not having proper antecedent basis for "the uppermost layers of the absorbent article." Accordingly, applicants have amended claim 6 to incorporate proper antecedent basis. No new matter has been added.

Accordingly, applicant respectfully requests that the rejection be withdrawn.

### Specification

The specification was objected to because The Summary of the Invention section was allegedly not commensurate in scope with the claims. In order to expedite prosecution, applicant has amended The Summary of the Invention section by incorporating the recitations of independent claims 1 and 16. No new matter has been added. Accordingly, applicant respectfully requests that the objection be withdrawn.

### Art Rejections

#### Cercone

Claims 16-18 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,744,150, hereinafter Cercone. Applicants respectfully traverse this rejection.

Cercone discloses an antimicrobial sponge having an iodine/polyvinyl acetal complex. Upon contact with moisture, iodine is released and the surface of the sponge turns from golden to black and shows that the antimicrobial activity of the sponge has begun. When the iodine is depleted, the color turns to white. The color indication shows when the antimicrobial activity of the sponge has started and when

the activity is over due to depletion of the antimicrobial material. This use is intended only for use during use of the sponge.

Cercone does not teach or suggest each feature of representative claim 16. For example, Cercone does not teach or suggest "monitoring the visual indicator for any change in activity status caused by storing."

The Office has asserted that in normal and usual operation, the claimed method is necessarily performed by the Cercone sponge. However, this is not the case. The Examiner's attention is drawn to the language used in MPEP § 2112.02; "Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device." (Emphasis added).

In the normal and usual operation of the Cercone sponge, monitoring cannot start until after use of the sponge has begun. Thus, any monitoring in the normal and usual operation of the Cercone sponge may detect a further change in the activity status from any change which may have been caused by the storage. Thus, in the normal and usual operation of the Cercone sponge, there is no monitoring for any change caused by storing. Thus, in view of the differences of the method, in particular the fact that the indicator in Cercone is intended to indicate usage, whereas the indicator in claim 16 refers to storage conditions, claim 16 is clearly patentable over Cercone.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejections based on Cercone.

#### Moench

Claims 1-2, 6 and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,592,949, hereinafter Moench. Applicants respectfully traverse this rejection.

Moench does not teach or suggest each feature of representative claim 1. For example, Moench does not teach or suggest a visual indicator that indicates an activity status of the active additive.

The Office has asserted that Moench discloses a visual indicator, bromocresol. However, the Office's reliance on this disclosure is misplaced. The bromocresol is used in an example to test the ability of the acidified superabsorbent

to rapidly absorb, acidify and retain semen. That is, Moench does not teach or suggest an absorbent product that comprises bromocresol. The bromocresol was simply used during a testing of features.

Additionally, Moench does not teach or suggest each feature of representative claim 1. For example, Moench does not teach or suggest at least one active additive which produces an acid. The Office alleges that the passage "all fluid absorbed by the device will be adequately acidified" at column 7, lines 11-12 of Moench, to suggest that acid is produced. However, this is not a teaching that an acid is produced but is instead a teaching that an acidic pH is maintained by a buffer solution.

Accordingly, claim 1 is clearly patentable over Moench. The remaining claims are dependent claims, which are thus also patentable over Moench.

#### Fenn

Claims 16 and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,311,479, hereinafter Fenn. Applicants respectfully traverse this rejection.

Fenn does not teach or suggest each feature of representative claim 16. For example, Fenn does not teach or suggest "monitoring the visual indicator for any change in activity status caused by storing."

The Office has asserted that in normal and usual operation, the claimed method is necessarily performed by the Fenn cloth. However, this is not the case. The Examiner's attention is drawn to the language used in MPEP § 2112.02; "Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device." (Emphasis added).

Specifically, Fenn recites that the indicator is intended to indicate when the antimicrobial component has been reacted or used up during use. See column 3, lines 48-53.

Thus, in the normal and usual operation of the Fenn cloth, monitoring cannot start until after use of the cloth has begun. Thus, any monitoring in the normal and usual operation of the Fenn cloth may detect a further change in the activity status from any change which may have been caused by the storage. Thus, in the normal

and usual operation of the Fenn cloth, there is no monitoring for any change caused by storing. Thus, in view of the differences of the method, in particular the fact that the indicator in Fenn is intended to indicate usage, whereas the indicator in claim 16 refers to storage conditions, claim 16 is clearly patentable over Fenn.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejections based on Fenn.

Roden

Claims 16 and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,375,976, hereinafter Roden. Applicants respectfully traverse this rejection.

Roden does not teach or suggest each feature of representative claim 16. For example, Roden does not teach or suggest "monitoring the visual indicator for any change in activity status caused by storing."

The Office has asserted that in normal and usual operation, the claimed method is necessarily performed by the Roden article. However, this is not the case. The Examiner's attention is drawn to the language used in MPEP § 2112.02; "Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device." (Emphasis added).

In the normal and usual operation of the Roden article, monitoring cannot start until after use of the article has begun. Thus, any monitoring in the normal and usual operation of the Roden article may detect a further change in the activity status from any change which may have been caused by the storage. Thus, in the normal and usual operation of the Roden article, there is no monitoring for any change caused by storing. Thus, in view of the differences of the method, in particular the fact that the indicator in Roden is intended to indicate usage, whereas the indicator in claim 16 refers to storage conditions, claim 16 is clearly patentable over Roden.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejections based on Roden.

Morris

Claims 1-3, 15-16, 18-19 and 23 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,342,543, hereinafter Morris. Applicants respectfully traverse this rejection.

Morris does not teach or suggest each feature of representative claim 1. For example, Morris does not teach or suggest at least one active additive which produces an acid. Instead, Morris discloses including a neutralizing chemical which is an acid. See, e.g., column 4, lines 39-47 and lines 66-68.

Accordingly, claim 1 is clearly patentable over Morris. The remaining claims are dependent claims, which are thus also patentable over Morris.

Morris does not teach or suggest each feature of representative claim 16. For example, Morris does not teach or suggest "monitoring the visual indicator for any change in activity status caused by storing."

The Office has asserted that in normal and usual operation, the claimed method is necessarily performed by the Morris product. However, this is not the case. The Examiner's attention is drawn to the language used in MPEP § 2112.02; "Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device." (Emphasis added).

Specifically, Morris recites that the indicator is intended to indicate when the spilled material has been neutralized. See column 4, lines 3-18.

Thus, in the normal and usual operation of the Morris product, monitoring cannot start until after use of the product has begun. Thus, any monitoring in the normal and usual operation of the Morris product may detect a further change in the activity status from any change which may have been caused by the storage. Thus, in the normal and usual operation of the Morris product, there is no monitoring for any change caused by storing. Thus, in view of the differences of the method, in particular the fact that the indicator in Morris is intended to indicate usage, whereas the indicator in claim 16 refers to storage conditions, claim 16 is clearly patentable over Morris.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejections based on Morris.

Moench in view of Schoenfeld

Claims 3 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moench in view of Schoenfeld. Applicants respectfully traverse this rejection.

The Office has only relied upon Schoenfeld for its alleged teaching of the particular indicator. Accordingly, Schoenfeld does not otherwise overcome the rejections of claim 1, from which claims 3 and 15 depend.

Moench in view of SCA

Claims 4 and 10-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moench in view of Applicants alleged admissions and SCA '846. Applicants respectfully traverse this rejection.

The alleged combination does not teach or suggest each feature of the present invention. As discussed above, Moench does not teach or suggest a visual indicator that indicates an activity status of the active additive. Nor, does Moench teach or suggest at least one active additive which produces an acid. The alleged combination does not overcome these deficiencies.

Accordingly, claims 4 and 10-11 are clearly patentable over the applied art.

Roden in view of Schoenfeld

Claim 19 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Roden in view of Schoenfeld. Applicants respectfully traverse this rejection.

The Office has only relied upon Schoenfeld for its alleged teaching of the particular indicator. Accordingly, Schoenfeld does not otherwise overcome the rejections of claim 16, from which claim 19 depends.

Roden in view of SCA

Claims 20-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Roden in view of Applicants alleged admissions and SCA '846. Applicants respectfully traverse this rejection.

The alleged combination does not teach or suggest each feature of the present invention. As discussed above, Roden does not teach or suggest

"monitoring the visual indicator for any change in activity status caused by storing."

The alleged combination does not overcome these deficiencies.

Accordingly, claims 20-22 are clearly patentable over the applied art.

**Conclusion**

In view of the foregoing amendments and remarks, the Examiner is respectfully urged to reconsider and withdraw the outstanding objections and rejections. In the event that there any questions concerning this amendment, or the application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL PC

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By: T.D. Boone

Travis D. Boone

Registration No. 52,635

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620